IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Vijay Swami Vs. Smt. Rekha

S.B.CR.MISC. PETITION NO.1329/2005

against the order dt.17.10.2005 passed by Judicial Magistrate, Bhilwara in Cr.Case No.280/2004

DATE OF ORDER :: August 18, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.P.N.Mohanani, for the petitioner.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt. 17.10.2005 passed by Judicial Magistrate, Bhilwara (for short 'the trial court' hereinafter), whereby the trial court awarded monthly allowance of interim maintenance at the rate of Rs.500/- per month in favour of non-petitioner and against the petitioner from the date of application.

I have heard learned counsel for the petitioner. Carefully gone through the order impugned.

It is contended by the learned counsel for the petitioner that the petitioner is having monthly income of Rs.3000/- and he has to maintain his son and other members of the family and, therefore, a sum of Rs.500/- granted as interim maintenance is on higher side. It is further contended that the trial court fell in error in granting the interim maintenance from the date of application.

The contention raised by the learned counsel for the petitioner has no force and cannot be accepted in view of the decision of a Division Bench of this Court in Smt. Savita Sharma vs. Shri Krishan Murari, **1990 (1) RLR 400,** wherein this Court has held that the maintenance should be from the date of application.

The amount of monthly allowance of interim maintenance is Rs.500/- out of Rs.3000/- which according to the petitioner is being paid. To maintain an adult person, a sum of Rs.500/- cannot be excessive. In the circumstances, therefore, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of court.

Consequently, the cr.misc. petition is dismissed. Stay petition also stands dismissed. The trial court is directed to decide the main application filed under section 125 Cr.P.C. utmost expeditiously.

[H.R.PANWAR],J.

m.asif/-